

HOUSE BILL No. 1093

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10.2; IC 5-10.3-6-7; IC 5-10.3-7; IC 21-6.1-4-4.6; IC 21-6.1-4-5; IC 33-13; IC 36-8-8.

Synopsis: Public pension funds. Provides that the annuity savings account of a member of the public employees' retirement fund (PERF) or the teachers' retirement fund (TRF) shall be valued as of the valuation date coinciding with or preceding the member's date of retirement for any portion annuitized and shall be valued as of the last valuation date, plus any contributions since that date, for any portion distributed in a lump sum. Provides that the PERF board and the TRF board shall suspend a person's fund membership and shall pay the person the annuity savings account if the member has not performed any service in a covered position during the past two years, is not vested, and has a total benefit value of less than \$200. Allows PERF
(Continued next page)

Effective: June 1, 1998 (retroactive); July 1, 1999.

Kromkowski, Klinker

January 6, 1999, read first time and referred to Committee on Ways and Means.

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and TRF to pay an estimated retirement benefit to a member under certain circumstances. Provides that after a member's actual retirement benefit is calculated, the fund shall temporarily adjust the member's benefit to reconcile any underpayment or overpayment that resulted from the payment of estimated benefits. Allows a member of PERF or TRF to designate a new beneficiary under certain circumstances. Allows a member of PERF or TRF to elect to begin receiving the member's pension benefit but to leave the member's annuity savings account invested until a later date. Continues to use an earnings limit prepared under federal Social Security laws to determine how much a PERF or TRF member who is receiving benefits may earn in a fund-covered position before the member's benefits are suspended and the member is reinstated into active membership, but specifies the period within which the limit is applied. Provides for an automatic suspension of benefits if a member is reemployed within 90 days of retirement. Requires an employer to submit a PERF member's membership records to the PERF board not more than 30 days after the member is hired. Provides that if an employer does not provide the PERF board with employees' membership records or other reports or payments within 30 days after the records, reports, or payments are due, the PERF board may fine the employer \$100 for each day the records, reports, or payments are late. Allows the auditor of state to withhold this penalty from money payable by the state to the employer. Allows certain individuals to claim service credit in PERF if the individuals: (1) were erroneously enrolled in PERF before 1980; (2) made contributions to PERF; and (3) were subsequently denied all or part of the service credit for a position that would otherwise be covered by PERF. Allows PERF members to purchase service credit at actuarial cost for their prior service in positions covered by the 1925 fund, the 1937 fund, or the 1953 fund if they did not vest in any of those funds. Provides that TRF members may purchase service credit for private school teaching after one year of credited service in TRF. (Current law provides that the private school service credit may be purchased only after the TRF member has ten years of credited service in TRF.) Provides that a TRF member who purchases service credit for private school teaching may not claim the service credit until the member has at least ten years of credited service in TRF. (These changes would make the provisions concerning purchase of private school service credit consistent with provisions concerning the purchase of other forms of service credit.) Provides that private school teaching credit may be claimed for teaching kindergarten through postsecondary school. Allows a member of TRF to take up to one year of adoption leave. Provides that if a town establishes a police department or becomes a city, the age requirements and physical and mental examination requirements of the 1977 fund do not prohibit a police officer employed by the municipality from becoming a member of the 1977 fund. Provides that if a member of the 1977 fund requests a hearing concerning a determination of impairment, the local police or firefighter pension board must hold the hearing within 90 days after the member's request and must make a determination within 30 days after the hearing. Allows members of the judges' retirement system to purchase service credit at full actuarial cost for prior service in an Indiana public employees' retirement fund. Provides that for purposes of the 1977 fund provisions concerning line of duty benefits paid to a survivor, the term "line of duty" also includes any action that a fund member, in the member's capacity as a police officer or firefighter, performs: (1) in the course of controlling or reducing crime or enforcing the criminal law; or (2) while on the scene of an emergency run or on the way to or from the scene. (The introduced version of this bill was prepared by the pension management oversight commission.)

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First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1093

A BILL FOR AN ACT to amend the Indiana Code concerning public pensions.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-10.2-2-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) The annuity
3 savings account consists of:
4 (1) the members' contributions; and
5 (2) the interest credits on these contributions as specified in
6 section 4 of this chapter.
7 Each member shall be credited individually with the amount of the
8 member's contributions and interest credits.
9 (b) Each board shall maintain the annuity savings account program
10 in effect on December 31, 1995 (referred to in this chapter as the
11 guaranteed program). In addition, the board of the Indiana state
12 teachers' retirement fund shall establish and maintain a guaranteed
13 program within the 1996 account. Each board may establish investment
14 guidelines and limits on all types of investments (including, but not
15 limited to, stocks and bonds) and take other actions necessary to fulfill
16 its duty as a fiduciary of the annuity savings account, subject to the
17 limitations and restrictions set forth in IC 5-10.3-5-3 and IC 21-6.1-3-9.
18 (c) Each board shall establish alternative investment programs



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1 within the annuity savings account of the public employees' retirement
 2 fund, the pre-1996 account, and the 1996 account, based on the
 3 following requirements:

4 (1) Each board shall maintain at least one (1) alternative
 5 investment program that is an indexed stock fund and one (1)
 6 alternative investment program that is a bond fund.

7 (2) The programs should represent a variety of investment
 8 objectives under IC 5-10.3-5-3.

9 (3) No program may permit a member to withdraw money from
 10 the member's account except as provided in IC 5-10.2-3 and
 11 IC 5-10.2-4.

12 (4) All administrative costs of each alternative program shall be
 13 paid from the earnings on that program.

14 (5) A valuation of each member's account must be completed at
 15 least annually.

16 (d) The board must prepare, at least annually, an analysis of the
 17 guaranteed program and each alternative investment program. This
 18 analysis must:

19 (1) include a description of the procedure for selecting an
 20 alternative investment program;

21 (2) be understandable by the majority of members; and

22 (3) include a description of prior investment performance.

23 (e) A member may direct the allocation of the amount credited to
 24 the member among the guaranteed fund and any available alternative
 25 investment funds, subject to the following conditions:

26 (1) A member may make a selection or change an existing
 27 selection at any time, but not more than once in a twelve (12)
 28 month period.

29 (2) The board shall implement the member's selection beginning
 30 the first day of the next calendar quarter that begins at least thirty
 31 (30) days after the selection is received by the board. This date is
 32 the effective date of the member's selection.

33 (3) A member may select any combination of the guaranteed fund
 34 or any available alternative investment funds, in ten percent
 35 (10%) increments.

36 (4) A member's selection remains in effect until a new selection
 37 is made.

38 (5) On the effective date of a member's selection, the board shall
 39 reallocate the member's existing balance or balances in
 40 accordance with the member's direction, based on the market
 41 value for an alternative investment program balance on the
 42 effective date and by account balance for any guaranteed program

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1 balance on the effective date. All future contributions to the
 2 member's account shall be allocated in accordance with the
 3 member's most recent effective direction. The board shall not
 4 reallocate the member's account at any other time.

5 (f) When a member who has selected an alternative investment
 6 program retires, dies, suspends membership and withdraws from the
 7 fund, or transfers the amount credited to the member from one (1)
 8 alternative investment program to another, the amount credited to the
 9 member shall be valued at **an amount equal to** the market value of the
 10 member's investment, as of the **valuation date coinciding with or**
 11 **preceding the member's effective date of retirement for any**
 12 **portion annuitized and as of the last day of the preceding quarter;**
 13 **valuation date, plus any contributions since that date, for any**
 14 **portion distributed to the member in a lump sum.**

15 (g) When a member who participates in the guaranteed program
 16 retires, dies, suspends membership and withdraws from the fund, or
 17 transfers the amount credited to the member to an alternative
 18 investment program, the amount credited to the member in the
 19 guaranteed program is computed without regard to market value and is
 20 based on the balance of the member's account in the guaranteed
 21 program as of the **member's effective date of retirement for any**
 22 **portion annuitized and as of the last day of the preceding quarter;**
 23 **valuation date, for any portion distributed to the member in a**
 24 **lump sum,** plus any contributions ~~received~~ since that date **and interest**
 25 **since that date through the distribution date.**

26 SECTION 2. IC 5-10.2-3-5 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. Suspension of
 28 Membership. (a) A member who is not eligible for retirement or
 29 disability retirement may suspend his membership if he terminates
 30 employment.

31 (b) After five (5) continuous years in which he performs no service,
 32 his membership shall be automatically suspended by the board unless
 33 he is vested status.

34 (c) **The board shall suspend a member's membership in the fund**
 35 **if:**

- 36 (1) **the member has not performed any service in a covered**
- 37 **position during the past two (2) years;**
- 38 (2) **the member has not attained vested status in the fund; and**
- 39 (3) **the value of the member's annuity savings account is not**
- 40 **more than two hundred dollars (\$200).**

41 (d) The board may establish rules for deferring the effective date of
 42 a suspension of membership **under this section.** The deferral may not

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1 be for more than six (6) months.

2 ~~(b)~~ (e) On resuming service the member may claim as creditable
3 service the period of employment before the suspension of
4 membership, but only to the extent that the same period of employment
5 is not being used by another governmental plan for purposes of the
6 member's benefit in the other governmental plan.

7 SECTION 3. IC 5-10.2-3-6 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) After a member
9 suspends his membership, he is entitled to withdraw in a lump sum the
10 amount of his contributions plus interest credited to him.

11 (b) Except as provided in subsection (c), if the member does not
12 claim his moneys within five (5) years after the suspension, the moneys
13 shall be credited to the retirement fund. Any reasonable costs of
14 locating the member or the member's beneficiary may be charged
15 against the member's or the beneficiary's money. The fund shall retain
16 the moneys until the member claims them, with no further interest
17 credits to the member after the moneys are credited to the fund.

18 (c) If a member suspends membership in the fund because the
19 member is no longer in a covered position but does not separate from
20 employment with the member's employer, money shall be credited to
21 the retirement fund only if the member does not claim the member's
22 money within forty-five (45) years after the suspension.

23 **(d) If a member is suspended under section (5)(c) of this**
24 **chapter, the board shall pay the member's annuity savings account**
25 **in a lump sum.**

26 SECTION 4. IC 5-10.2-4-1.5 IS ADDED TO THE INDIANA
27 CODE AS A NEW SECTION TO READ AS FOLLOWS
28 [EFFECTIVE JULY 1, 1999]: Sec. 1.5. (a) **A fund may calculate and**
29 **pay an estimated retirement benefit to a member if:**

30 **(1) the member has applied for a retirement benefit and has**
31 **chosen a retirement date on which the retirement benefit is to**
32 **begin;**

33 **(2) the member's membership records are incomplete or have**
34 **not been certified; and**

35 **(3) the member's membership records that have been**
36 **submitted to the fund establish that the member is entitled to**
37 **a retirement benefit.**

38 **(b) A fund may calculate an estimated benefit under this section**
39 **based on eighty-five percent (85%) of the benefit determined under**
40 **the fund's records on service and compensation information.**

41 **(c) If an estimated benefit is paid to a member under this**
42 **section, the fund shall, after all membership records have been**

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1 submitted to the fund and certified, determine the actual
 2 retirement benefit to which the member is entitled. After
 3 determining the actual retirement benefit to which the member is
 4 entitled, the fund shall temporarily adjust the actual retirement
 5 benefit that is paid to the member to reconcile any underpayment
 6 or overpayment of benefits to the member that resulted from the
 7 payment of estimated benefits. The fund may make the temporary
 8 adjustment to the member's actual retirement benefit over a
 9 reasonable time determined by the fund.

10 SECTION 5. IC 5-10.2-4-2 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) **Unless a**
 12 **member elects otherwise under this section**, the retirement benefit
 13 for each member consists of the sum of a pension provided by
 14 employer contributions plus an annuity provided by the amount
 15 credited to the member in the annuity savings account. ~~However,~~

16 (b) A member may choose at retirement or upon a disability
 17 retirement to receive a lump sum payment of:

18 (1) the entire amount credited to the member in the annuity
 19 savings account; or

20 (2) an amount equal to the member's federal income tax basis in
 21 the member's annuity savings account balance as it existed on
 22 December 31, 1986.

23 If the member chooses to receive the lump sum payment under
 24 subdivision (1), the member is not entitled to an annuity as part of the
 25 retirement or disability benefit. If the member chooses to receive the
 26 lump sum payment under subdivision (2), the member is entitled to an
 27 annuity purchasable by the amount remaining in the member's annuity
 28 savings account after the payment under subdivision (2).

29 (c) **Instead of choosing to receive the benefits described in**
 30 **subsection (a) or (b), a member may choose upon retirement or**
 31 **upon disability retirement to begin receiving a pension provided by**
 32 **employer contributions and to defer receiving in any form the**
 33 **member's annuity savings account. If a member chooses this**
 34 **option, the member:**

35 (1) **is not entitled to an annuity as part of the member's**
 36 **retirement or disability benefit, and the member's annuity**
 37 **savings account will continue to be invested according to the**
 38 **member's direction under IC 5-10.2-2-3; and**

39 (2) **may later choose to receive a lump sum payment of:**

40 (A) **the entire amount credited to the member in the**
 41 **annuity savings account; or**

42 (B) **an amount equal to the member's federal income tax**



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1 basis in the member's annuity savings account balance as
2 it existed on December 31, 1986.

3 **If the member chooses to receive the lump sum payment under**
4 **subdivision (2)(A), the member is not entitled to an annuity as part**
5 **of the member's retirement or disability benefit. If the member**
6 **chooses to receive the lump sum payment under subdivision (2)(B),**
7 **the member is entitled to an annuity purchasable by the amount**
8 **remaining in the member's annuity savings account after the**
9 **payment under subdivision (2)(B). If the member does not choose**
10 **to receive a lump sum under this subsection, the member is entitled**
11 **to an annuity purchasable by the entire amount in the member's**
12 **annuity savings account, and the form of the annuity shall be as**
13 **described in subsection (d) unless the member elects an option**
14 **described in section 7(b)(1), 7(b)(2), or 7(b)(4) of this chapter.**

15 ~~(b)~~ (d) A member who retires is entitled to receive monthly
16 retirement benefits, which are guaranteed for five (5) years or until the
17 member's death, whichever is later.

18 ~~(e)~~ (e) Retirement benefits must be distributed in a manner that
19 complies with Section 401(a)(9) of the Internal Revenue Code, as
20 specified in IC 5-10.2-2-1.5.

21 SECTION 6. IC 5-10.2-4-4 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) The computation
23 of benefits under this section is subject to IC 5-10.2-2-1.5.

24 (b) For retirement benefits payable on and after July 1, 1975, for a
25 member retired on and after January 1, 1956, the pension (p) is
26 computed as follows:

27 STEP ONE: Multiply one and one-tenths percent (1.1%) times the
28 average of the annual compensation (aac) and obtain a product.

29 STEP TWO: To obtain the pension, multiply the STEP ONE
30 product by the total creditable service (scr) completed by the
31 member on his retirement date.

32 Expressed mathematically:

$$33 p = (.011) \text{ times } (aac) \text{ times } (scr)$$

34 (c) Unless the member has chosen a lump sum payment under
35 section 2 of this chapter **or elects to defer receiving in any form the**
36 **member's annuity savings account under section 2(c) of this**
37 **chapter**, the annuity is the amount purchasable on the member's
38 retirement date by the amount credited to the member in the annuity
39 savings account. The amount purchasable is based on actuarial tables
40 adopted by the board under IC 5-10.2-2-10 at an interest rate
41 determined by the board. ~~but no greater than the average interest rate~~
42 ~~earned during the immediately preceding fiscal year ending June 30 on~~



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1 ~~bonds held in the investment portfolio of the fund.~~

2 SECTION 7. IC 5-10.2-4-7 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) Benefits provided
4 under this section are subject to IC 5-10.2-2-1.5.

5 (b) A member may select in writing any of the following
6 nonconflicting options for the payment of the member's retirement
7 benefits instead of the guaranteed retirement benefit payments
8 specified in section 2 of this chapter. The amount of the optional
9 payments shall be determined under rules of the board and shall be the
10 actuarial equivalent of the benefit payable under sections 4, 5, and 6 of
11 this chapter.

12 (1) Joint and Survivor Option.

13 (A) The member receives a decreased retirement benefit
14 during the member's lifetime, and there is a benefit payable
15 after the member's death to a designated beneficiary during the
16 lifetime of the beneficiary, which benefit equals, at the option
17 of the member, either the full decreased retirement benefit or
18 two-thirds (2/3) or one-half (1/2) of that benefit.

19 (B) If the member dies before retirement, the designated
20 beneficiary may receive only the amount credited to the
21 member in the annuity savings account unless the designated
22 beneficiary is entitled to survivor benefits under IC 5-10.2-3.

23 (C) If the designated beneficiary dies before the member
24 retires, the selection is automatically canceled **and the**
25 **member may make a new beneficiary election and may**
26 **elect a different form of benefit under this subsection.**

27 (D) If:

28 (i) the designated beneficiary dies while the member is
29 receiving benefits; ~~the amount of reduced retirement~~
30 ~~benefits is not affected; or~~

31 (ii) **the member is receiving benefits, the member**
32 **marries after the member's first benefit payment is**
33 **made, and the member's designated beneficiary is not**
34 **the member's current spouse or the member has not**
35 **designated a beneficiary;**

36 **the member may elect to change the member's designated**
37 **beneficiary or form of benefit under this subsection and to**
38 **receive an actuarially adjusted and recalculated benefit for**
39 **the remainder of the member's life or for the remainder of**
40 **the member's life and the life of the newly designated**
41 **beneficiary. If the member's new election is the joint and**
42 **survivor option, the member shall indicate whether the**



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1 **designated beneficiary's benefit shall equal, at the option**
 2 **of the member, either the member's full recalculated**
 3 **retirement benefit or two-thirds (2/3) or one-half (1/2) of**
 4 **this benefit. The cost of recalculating the benefit shall be**
 5 **borne by the member and shall be included in the actuarial**
 6 **adjustment.**

7 (2) Benefit with No Guarantee. The member receives an increased
 8 lifetime retirement benefit without the five (5) year guarantee
 9 specified in section 2 of this chapter.

10 (3) Integration with Social Security. If the member retires before
 11 the age of eligibility for Social Security benefits, in order to
 12 provide a level benefit during the member's retirement the
 13 member receives an increased retirement benefit until the age of
 14 Social Security eligibility and decreased retirement benefits after
 15 that age.

16 (4) Cash Refund Annuity. The member receives a lifetime annuity
 17 purchasable by the amount credited to the member in the annuity
 18 savings account, and the member's designated beneficiary
 19 receives a refund payment equal to:

20 (A) the total amount used in computing the annuity at the
 21 retirement date; minus

22 (B) the total annuity payments paid and due to the member
 23 before the member's death.

24 (c) A selection under subsection (b) may be made or revoked by the
 25 member on or before:

26 (1) the retirement date selected under section 1 of this chapter; or

27 (2) the date on which a retirement date is selected under section
 28 1 of this chapter;

29 whichever is later.

30 **SECTION 8. IC 5-10.2-4-8 IS AMENDED TO READ AS**
 31 **FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) As used in this**
 32 **section, "exempt amount" means ~~twelve (12) times the monthly exempt~~**
 33 **~~amount; the annual earnings limit under the federal Social Security~~**
 34 **~~system at the member's Social Security normal retirement age for~~**
 35 **~~a member entitled to receive unreduced Social Security benefits,~~**
 36 **computed for the calendar year in which a retired **public employees'****
 37 ****retirement fund** member begins reemployment, for beneficiaries aged**
 38 **sixty-five (65) through sixty-nine (69) in the federal social security**
 39 **system by the Secretary of Health and Human Services under 42 U.S.C.**
 40 **403; is reemployed and computed for the fiscal year in which a**
 41 **retired teachers' retirement fund member is reemployed.**

42 (b) If a member who is receiving retirement benefits:



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1 (1) becomes reemployed in a position covered by this article; and
 2 (2) earns in that position more than the exempt amount;
 3 his retirement benefit payments shall stop, and the member shall begin
 4 making contributions as required in IC 5-10.2-3-2. However, employer
 5 contributions shall be made throughout the period of reemployment.

6 (c) **If a member who is receiving retirement benefits is**
 7 **reemployed in a position covered by this article not more than**
 8 **ninety (90) days after the member's retirement, the member's**
 9 **retirement benefits shall stop, the member shall begin making**
 10 **contributions as required by IC 5-10.2-3-2, and employer**
 11 **contributions shall be made throughout the period of**
 12 **reemployment.**

13 SECTION 9. IC 5-10.3-6-7 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. Collection of
 15 Payments. If the **employer or** political subdivision fails to make
 16 payments required by this chapter, the amount payable may be
 17 withheld by the auditor of state from moneys payable to the **employer**
 18 **or** subdivision and transferred to the fund or recovered in a suit in the
 19 circuit or superior court of the county in which the political subdivision
 20 is located, which suit shall be an action by the state on the relation of
 21 the board, prosecuted by the attorney general. **If the employer or**
 22 **political subdivision fails to file the reports or records required by**
 23 **this chapter or by IC 5-10.3-7-12.5, the auditor of state shall**
 24 **withhold the penalty described in IC 5-10.3-7-12.5 from money**
 25 **payable to the employer or the political subdivision and shall**
 26 **transfer the penalty to the fund.**

27 SECTION 10. IC 5-10.3-7-2.7 IS ADDED TO THE INDIANA
 28 CODE AS A NEW SECTION TO READ AS FOLLOWS
 29 [EFFECTIVE JULY 1, 1999]: Sec. 2.7. (a) **This section applies only**
 30 **to an individual who:**

31 (1) **began service as a police officer or firefighter and became**
 32 **a member of a police officers' pension fund or firefighters'**
 33 **pension fund before 1980;**

34 (2) **began service in another position (referred to in this**
 35 **section as the "PERF position") and was enrolled erroneously**
 36 **as a contributing member of the public employees' retirement**
 37 **fund with respect to the PERF position before 1980;**

38 (3) **made contributions to the public employees' retirement**
 39 **fund with respect to the PERF position as if the individual had**
 40 **been legally enrolled in that fund;**

41 (4) **after 1991 was denied service credit in the public**
 42 **employees' retirement fund with respect to all or part of the**

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1 individual's service in the PERF position because of the
 2 individual's service in the police officer or firefighter position
 3 described in subdivision (1); and
 4 (5) claims service credit in PERF and applies for membership
 5 in PERF before January 1, 2000.

6 (b) Notwithstanding the provisions of section 2 of this chapter,
 7 an individual described in subsection (a) who:

8 (1) is not otherwise eligible for membership in the public
 9 employees' retirement fund; and

10 (2) was enrolled erroneously in the public employees'
 11 retirement fund as a contributing member;
 12 is eligible for membership in the public employees' retirement fund
 13 and is entitled to receive the benefits provided by that fund.

14 SECTION 11. IC 5-10.3-7-4.6 IS ADDED TO THE INDIANA
 15 CODE AS A NEW SECTION TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 1999]: Sec. 4.6. (a) Subject to the provisions
 17 of this section, a member may purchase service credit for the
 18 member's prior service in a position covered by the 1925 police
 19 pension fund under IC 36-8-6, the 1937 firefighters' pension fund
 20 under IC 36-8-7, or the 1953 police pension fund under IC 36-8-7.5
 21 if the member meets the following requirements:

22 (1) The member has at least one (1) year of credited service in
 23 the fund.

24 (2) The member has not attained vested status in and is not an
 25 active member of the 1925 police pension fund, the 1937
 26 firefighters' pension fund, or the 1953 police pension fund.

27 (3) Before the member retires, the member makes
 28 contributions to the fund as follows:

29 (A) Contributions that are equal to the product of the
 30 following:

31 (i) The member's salary at the time the member actually
 32 makes a contribution for the service credit.

33 (ii) A rate, determined by the actuary of the fund, based
 34 on the age of the member at the time the member
 35 actually makes a contribution for service credit and
 36 computed to result in a contribution amount that
 37 approximates the actuarial present value of the benefit
 38 attributable to the service credit purchased.

39 (iii) The number of years of service credit the member
 40 intends to purchase.

41 (B) Contributions for any accrued interest, at a rate
 42 determined by the actuary for the fund, for the period

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1 from the member's initial membership in the fund to the
2 date payment is made by the member.

3 (4) The member has received verification from the fund that
4 the service in the 1925 police pension fund, the 1937
5 firefighters' pension fund, or the 1953 police pension fund is,
6 as of that date, valid.

7 (b) At least ten (10) years of service in Indiana is required
8 before a member may receive a benefit based on service credits
9 purchased under this section.

10 (c) A member who:

11 (1) terminates employment before satisfying the eligibility
12 requirements necessary to receive a monthly allowance; or

13 (2) receives a monthly allowance for the same service from
14 another tax supported public employee retirement plan other
15 than under the Social Security Act;

16 may withdraw the purchase amount plus accumulated interest
17 after submitting a properly completed application for a refund to
18 the fund.

19 (d) The following apply to the purchase of service credit under
20 this section:

21 (1) The board may allow a member to make periodic
22 payments of the contributions required for the purchase of
23 the service credit. The board shall determine the length of the
24 period during which the payments must be made.

25 (2) The board may deny an application for the purchase of
26 service credit if the purchase would exceed the limitations
27 under Section 415 of the Internal Revenue Code.

28 (3) A member may not claim the service credit for purposes
29 of determining eligibility or computing benefits unless the
30 member has made all payments required for the purchase of
31 the service credit.

32 SECTION 12. IC 5-10.3-7-10 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. ~~Statement~~
34 ~~Concerning Employees~~. Each department shall submit to the board
35 certified ~~statements~~ **membership records** containing the names, titles,
36 rates of compensation, dates of birth, length of service, and other
37 pertinent information **required by the board** about the department's
38 employees. **A department must submit the membership record to**
39 **the board not more than thirty (30) days after the member's date**
40 **of hire.**

41 SECTION 13. IC 5-10.3-7-12.5 IS ADDED TO THE INDIANA
42 CODE AS A NEW SECTION TO READ AS FOLLOWS



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1 [EFFECTIVE JULY 1, 1999]: **Sec. 12.5. An employer or department**
 2 **must make the reports, membership records, or payments required**
 3 **by IC 5-10.3-6 or by sections 10 through 12 of this chapter not**
 4 **more than thirty (30) days after the end of the calendar quarter, if**
 5 **applicable, or another due date specified in sections 10 through 12**
 6 **of this chapter. If the employer or department does not make the**
 7 **reports, records, or payments within that time:**

8 (1) **the board may fine the employer or department one**
 9 **hundred dollars (\$100) for each additional day that the**
 10 **reports, records, or payments are late, to be withheld under**
 11 **IC 5-10.3-6-7; and**

12 (2) **if the employer or department is habitually late, as**
 13 **determined by the board, the board shall report the employer**
 14 **or the department to the auditor of state for additional**
 15 **withholding under IC 5-10.3-6-7.**

16 SECTION 14. IC 21-6.1-4-4.6 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4.6. (a) As used in this
 18 section, "private teaching service" means service in Indiana as a
 19 teacher in a private school, **kindergarten through postsecondary**, that
 20 would be creditable service if performed in an accredited public school
 21 in Indiana.

22 (b) A member may purchase private teaching service ~~if:~~ **credit**
 23 **subject to the following:**

24 (1) The member ~~has~~ **must have** at least ~~ten (10) years~~ **one (1)**
 25 **year of creditable credited** service in the fund.

26 (2) **The member must have at least ten (10) years of in-state**
 27 **creditable service before the member may claim the service**
 28 **credit.**

29 ~~(2)~~ (3) The member ~~makes~~ **must make** contributions, before the
 30 member retires, to the fund:

31 (A) that are equal to the product of the following:

32 (i) the member's salary at the time the member actually
 33 makes a contribution for the service credit;

34 (ii) a percentage rate, as determined by the actuary of the
 35 fund, based on the age of the member at the time the
 36 member makes a contribution for service credit and
 37 computed to result in a contribution amount that
 38 approximates the actuarial present value of the benefit
 39 attributable to the service credit purchased; and

40 (iii) the number of years of private teaching service the
 41 member intends to purchase; and

42 (B) for any accrued interest, at a rate determined by the

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1 actuary of the fund, for the period from the member's initial
2 membership in the fund to the date payment is made by the
3 member; and

4 (3) (4) The fund ~~receives~~ **must receive** verification from the
5 private school that the private teaching service occurred.

6 (c) Service for years of private teaching that qualify a member for
7 retirement in an out-of-state system, **a private retirement system**, or
8 in any federal retirement system may not be granted under this section.

9 (d) A member who:

10 (1) terminates employment before satisfying the eligibility
11 requirements necessary to receive a monthly allowance; or

12 (2) receives a monthly allowance for the same service from
13 another tax supported public employee retirement plan other than
14 under the Social Security Act;

15 may withdraw the personal contributions made under the contributory
16 plan plus accumulated interest after submitting to the fund a properly
17 completed application for a refund.

18 (e) The following apply to the purchase of service credit under this
19 section:

20 (1) The board may allow a member to make periodic payments of
21 the contributions required for the purchase of the service credit.
22 The board shall determine the length of the period during which
23 the payments must be made.

24 (2) The board may deny an application for the purchase of service
25 credit if the purchase would exceed the limitations under Section
26 415 of the Internal Revenue Code.

27 (3) A member may not claim the service credit for purposes of
28 determining eligibility or computing benefits unless the member
29 has made all payments required for the purchase of the service
30 credit.

31 SECTION 15. IC 21-6.1-4-5 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) Except as
33 provided in IC 21-6.1-4-6.1, a member may be given credit for leaves
34 of absence for study, professional improvement, and temporary
35 disability so long as the leave credit does not exceed one-seventh of the
36 total years of service claimed for retirement, referred to as the
37 one-seventh rule. A member granted a leave in these instances for
38 exchange teaching and for other educational employment approved
39 individually by the board is considered a teacher and is entitled to the
40 benefits of the fund if for or during the leave the member pays into the
41 fund the member's contributions. A leave for other educational
42 employment is not subject to the one-seventh rule.

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1 (b) In each case of a teacher requesting a leave of absence to work
 2 in a federally supported educational project, the board must determine
 3 that the project is educational in nature and serves state citizens who
 4 might otherwise be served by the public schools or public institutions
 5 of higher education. The board shall make this determination for a one
 6 (1) year period, which is later subject to review and reapproval.

7 (c) Subject to this chapter, leaves of absence specified in
 8 IC 20-6.1-6-1, IC 20-6.1-6-2, or IC 20-6.1-6-3 **and adoption leave of**
 9 **not more than one (1) year** must be credited to retirement.

10 (d) Notwithstanding any law, this section must be administered in
 11 a manner consistent with the Family and Medical Leave Act of 1993
 12 (29 U.S.C. 2601 et seq.). A member on a leave of absence that qualifies
 13 for the benefits and protections afforded by the Family and Medical
 14 Leave Act is entitled to receive credit for vesting and eligibility
 15 purposes to the extent required by the Family and Medical Leave Act,
 16 but is not entitled to receive credit for service for benefit purposes
 17 unless the leave is described in subsection (a), (b), or (c).

18 SECTION 16. IC 33-13-9.1-10.5 IS ADDED TO THE INDIANA
 19 CODE AS A NEW SECTION TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 1999]: **Sec. 10.5. (a) This section applies only**
 21 **to a person who:**

- 22 (1) is a judge participating under this chapter;
 23 (2) before becoming a judge was a member of an Indiana
 24 public employees' retirement fund;
 25 (3) received credited service under an Indiana public
 26 employees' retirement fund for the employment described in
 27 subdivision (2), and the credited service is not eligible for
 28 prior service credit under section 10 of this chapter; and
 29 (4) the member has not attained vested status under an
 30 Indiana public employees' retirement fund for the
 31 employment described in subdivision (2).

32 (b) If a person becomes a participant in the judges' 1977 benefit
 33 system under this chapter, credit for service described in
 34 subsection (a) shall be granted under this chapter by the board if:

- 35 (1) the prior service was credited under an Indiana public
 36 employees' retirement fund; and
 37 (2) the judge pays in a lump sum or in a series of payments
 38 determined by the board, not exceeding five (5) annual
 39 payments, the amount determined by the actuary for the 1977
 40 benefit system as the total actual cost of the service.

41 (c) If the requirements of subsection (b) are not satisfied, a
 42 participant is entitled to credit only for years of service after the

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1 date of participation in the 1977 benefit system.

2 (d) An amortization schedule for contributions paid under this
3 section must include interest at a rate determined by the board.

4 (e) If the requirements of subsection (b) are satisfied, the board
5 shall transfer from the Indiana public employees' retirement fund
6 to the judges' 1977 benefit system the amount credited to the
7 judge's annuity savings account and the present value of the
8 retirement benefit payable at sixty-five (65) years of age that is
9 attributable to the transferring participant.

10 (f) The amount a participant must contribute to the judges' 1977
11 benefit system under subsection (b) shall be reduced by the amount
12 transferred to the judges' 1977 benefit system by the board under
13 subsection (e).

14 (g) If the requirements of subsection (b) are satisfied, credit for
15 prior service in an Indiana public employees' retirement fund is
16 waived.

17 SECTION 17. IC 33-13-10.1-14.5 IS ADDED TO THE INDIANA
18 CODE AS A NEW SECTION TO READ AS FOLLOWS
19 [EFFECTIVE JULY 1, 1999]: **Sec. 14.5. (a) This section applies only
20 to a person who:**

21 (1) is a judge participating under this chapter;

22 (2) before becoming a judge was a member of an Indiana
23 public employees' retirement fund;

24 (3) received credited service under an Indiana public
25 employees' retirement fund for the employment described in
26 subdivision (2), and the credited service is not eligible for
27 prior service credit under section 14 of this chapter; and

28 (4) the member has not attained vested status under an
29 Indiana public employees' retirement fund for the
30 employment described in subdivision (2).

31 (b) If a person becomes a participant in the judges' 1985 benefit
32 system under this chapter, credit for service described in
33 subsection (a) shall be granted under this chapter by the board if:

34 (1) the prior service was credited under an Indiana public
35 employees' retirement fund; and

36 (2) the judge pays in a lump sum or in a series of payments
37 determined by the board, not exceeding five (5) annual
38 payments, the amount determined by the actuary for the 1985
39 benefit system as the total cost of the service.

40 (c) If the requirements of subsection (b) are not satisfied, a
41 participant is entitled to credit only for years of service after the
42 date of participation in the 1985 benefit system.



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1 (d) An amortization schedule for contributions paid under this
2 section must include interest at a rate determined by the board.

3 (e) If the requirements of subsection (b) are satisfied, the board
4 shall transfer from the Indiana public employees' retirement fund
5 to the judges' 1985 benefit system the amount credited to the
6 judge's annuity savings account and the present value of the
7 retirement benefit payable at sixty-five (65) years of age that is
8 attributable to the transferring participant.

9 (f) The amount a participant must contribute to the judges' 1985
10 benefit system under subsection (b) shall be reduced by the amount
11 transferred to the judges' 1985 benefit system by the board under
12 subsection (e).

13 (g) If the requirements of subsection (b) are satisfied, credit for
14 prior service in an Indiana public employees' retirement fund is
15 waived.

16 SECTION 18. IC 36-8-8-3 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) If a town
18 establishes a board of metropolitan police commissioners, or if a town
19 becomes a city, the municipality shall participate in the 1977 fund.
20 However, if a police officer is a member of the public employees'
21 retirement fund, he may continue as a member of that fund instead of
22 the 1977 fund. **Notwithstanding the age requirements and the**
23 **physical and mental examination requirements under**
24 **IC 36-8-8-7(a)**, a police officer employed by a municipality at the time
25 the municipality enters the 1977 fund under this section shall be a
26 member of the 1977 fund unless the police officer elects to continue as
27 a member of the public employees' retirement fund.

28 (b) If a unit did not establish a 1937 fund for its firefighters, the unit
29 may participate in the public employees' retirement fund or it may
30 participate in the 1977 fund. If a unit established a 1937 fund for its
31 firefighters, the unit is and shall remain a participant in the 1977 fund.

32 (c) A unit that:

33 (1) has not established a pension fund for its firefighters; or

34 (2) is participating in the public employees' retirement fund under
35 subsection (b);

36 may participate in the 1977 fund upon approval by the fiscal body,
37 notwithstanding IC 5-10.3-6-8. A unit that participates in the 1977 fund
38 under this subsection must comply with section 21 of this chapter.
39 However, if a firefighter is a member of the public employees'
40 retirement fund, the firefighter may continue as a member of that fund
41 instead of the 1977 fund.

42 SECTION 19. IC 36-8-8-12.7 IS AMENDED TO READ AS



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1 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12.7. (a) This section
 2 applies to hearings conducted by local boards concerning
 3 determinations of impairment under this chapter or of disability under
 4 IC 36-8-5-2(g), IC 36-8-6, IC 36-8-7, and IC 36-8-7.5.

5 (b) At least five (5) days before the hearing, the local board shall
 6 give notice to the fund member and the safety board of the time, date,
 7 and place of the hearing.

8 **(c) The local board must hold a hearing not more than ninety**
 9 **(90) days after the fund member requests the hearing.**

10 ~~(c)~~ **(d)** At the hearing, the local board shall permit the fund member
 11 and the safety board to:

- 12 (1) be represented by any individual;
- 13 (2) through witnesses and documents, present evidence;
- 14 (3) conduct cross-examination; and
- 15 (4) present arguments.

16 ~~(d)~~ **(e)** At the hearing, the local board shall require all witnesses to
 17 be examined under oath, which may be administered by a member of
 18 the local board.

19 ~~(e)~~ **(f)** The local board shall, at the request of the fund member or
 20 the safety board, issue:

- 21 (1) subpoenas;
- 22 (2) discovery orders; and
- 23 (3) protective orders;

24 in accordance with the Indiana Rules of Trial Procedure that govern
 25 discovery, depositions, and subpoenas in civil actions.

26 ~~(f)~~ **(g)** The local board shall have the hearing recorded so that a
 27 transcript may be made of the proceedings.

28 ~~(g)~~ **(h)** After the hearing, the local board shall make its
 29 determinations, including findings of fact, in writing and shall provide
 30 copies of its determinations to the fund member and the safety board
 31 **not more than thirty (30) days after the hearing.**

32 **(i) If the local board:**

- 33 **(1) does not hold a hearing within the time required under**
 34 **subsection (c); or**
- 35 **(2) does not issue its determination within the time required**
 36 **under subsection (h);**

37 **the fund member shall be considered to be totally impaired for**
 38 **purposes of section 13.5 of this chapter and, if the issue before the**
 39 **local board concerns the class of the member's impairment, the**
 40 **member shall be considered to have a Class 1 impairment.**

41 ~~(h)~~ **(j)** The local board may on its own motion issue:

- 42 (1) subpoenas;

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1 (2) discovery orders; and
 2 (3) protective orders;
 3 in accordance with the Indiana Rules of Trial Procedure that govern
 4 discovery, depositions, and subpoenas in civil actions.

5 ~~(j)~~ **(k)** At the hearing, the local board may exclude evidence that is
 6 irrelevant, immaterial, unduly repetitious, or excludable on the basis of
 7 evidentiary privilege recognized by the courts.

8 ~~(j)~~ **(l)** At the hearing, the local board may request the testimony of
 9 witnesses and the production of documents.

10 ~~(k)~~ **(m)** If a subpoena or order is issued under this section, the party
 11 seeking the subpoena or order shall serve it in accordance with the
 12 Indiana Rules of Trial Procedure. However, if the subpoena or order is
 13 on the local board's own motion, the sheriff of the county in which the
 14 subpoena or order is to be served shall serve it. A subpoena or order
 15 under this section may be enforced in the circuit or superior court of
 16 the county in which the subpoena or order is served.

17 ~~(l)~~ **(n)** With respect to a hearing conducted for purposes of
 18 determining disability under IC 36-8-6, IC 36-8-7, or IC 36-8-7.5, the
 19 determination of the local board after a hearing is final and may be
 20 appealed to the court.

21 ~~(m)~~ **(o)** With respect to a hearing conducted for purposes of
 22 determining impairment or class of impairment under this chapter, the
 23 fund member may appeal the local board's determinations. An appeal
 24 under this subsection:

- 25 (1) must be made in writing;
 26 (2) must state the class of impairment and the degree of
 27 impairment that is claimed by the fund member;
 28 (3) must include a written determination by the chief of the police
 29 or fire department stating that there is no suitable and available
 30 work; and
 31 (4) must be filed with the local board and the PERF board's
 32 director no later than thirty (30) days after the date on which the
 33 fund member received a copy of the local board's determinations.

34 ~~(n)~~ **(p)** To the extent required by the Americans with Disabilities
 35 Act, the transcripts, records, reports, and other materials generated as
 36 a result of a hearing, review, or appeal conducted to determine an
 37 impairment under this chapter or a disability under IC 36-8-6,
 38 IC 36-8-7, or IC 36-8-7.5 must be:

- 39 (1) retained in the separate medical file created for the member;
 40 and
 41 (2) treated as a confidential medical record.

42 SECTION 20. IC 36-8-8-13.1 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13.1. (a) If:

2 (1) the local board has determined under this chapter that a
3 covered impairment exists and the safety board has determined
4 that there is no suitable and available work within the department,
5 considering reasonable accommodation to the extent required by
6 the Americans with Disabilities Act; or

7 (2) the fund member has filed an appeal under ~~section 12.7(m)~~
8 **section 12.7(o)** of this chapter;

9 the local board shall submit the local board's determinations and the
10 safety board's determinations to the PERF board's director.

11 (b) After the PERF board's director receives the determinations, the
12 fund member must submit to an examination by a medical authority
13 selected by the PERF board. The authority shall determine if there is a
14 covered impairment. With respect to a fund member who is covered by
15 sections 12.5 and 13.5 of this chapter, the authority shall determine the
16 degree of impairment. The PERF board shall adopt rules under
17 IC 4-22-2 to establish impairment standards, such as the impairment
18 standards contained in the United States Department of Veterans
19 Affairs Schedule for Rating Disabilities. The report of the examination
20 shall be submitted to the PERF board's director. If a fund member
21 refuses to submit to an examination, the authority may find that no
22 impairment exists.

23 (c) The PERF board's director shall review the medical authority's
24 report and the local board's determinations and issue an initial
25 determination within sixty (60) days after receipt of the local board's
26 determinations. The PERF board's director shall notify the local board,
27 the safety board, and the fund member of the initial determination. The
28 following provisions apply if the PERF board's director does not issue
29 an initial determination within sixty (60) days and if the delay is not
30 attributable to the fund member or the safety board:

31 (1) In the case of a review initiated under subsection (a)(1):

32 (A) the determinations of the local board and the chief of the
33 police or fire department are considered to be the initial
34 determination; and

35 (B) for purposes of section 13.5(d) of this chapter, the fund
36 member is considered to be totally impaired.

37 (2) In the case of an appeal submitted under subsection (a)(2), the
38 statements made by the fund member under ~~section 12.7(m)~~
39 **section 12.7(o)** of this chapter are considered to be the initial
40 determination.

41 (d) The fund member, the safety board, or the local board may
42 object in writing to the director's initial determination within fifteen

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1 (15) days after the determination is issued. If no written objection is
 2 filed, the initial determination becomes the final order of the PERF
 3 board. If a timely written objection is filed, the PERF board shall issue
 4 the final order after a hearing. The final order shall be issued not later
 5 than one hundred eighty (180) days after the date of receipt of the local
 6 board's determination. The following provisions apply if a final order
 7 is not issued within one hundred eighty (180) days and if the delay is
 8 not attributable to the fund member or the chief of the police or fire
 9 department:

10 (1) In the case of a review initiated under subsection (a)(1):

11 (A) the determinations of the local board and the chief of the
 12 police or fire department are considered to be the final order;
 13 and

14 (B) for purposes of section 13.5(d) of this chapter, the fund
 15 member is considered to be totally impaired.

16 (2) In the case of an appeal submitted under subsection (a)(2), the
 17 statements made by the fund member under ~~section 12.7(m)~~
 18 **section 12.7(o)** of this chapter are considered to be the final order.

19 (e) If the PERF board approves the director's initial determination,
 20 then the PERF board shall issue a final order adopting the initial
 21 determination. The local board and the chief of the police or fire
 22 department shall comply with the initial determination. If the PERF
 23 board does not approve the initial determination, the PERF board may
 24 receive additional evidence on the matter before issuing a final order.

25 (f) Appeals of the PERF board's final order may be made under
 26 IC 4-21.5.

27 (g) The transcripts, records, reports, and other materials compiled
 28 under this section must be retained in accordance with the procedures
 29 specified in ~~section 12.7(n)~~ **section 12.7(p)** of this chapter.

30 SECTION 21. IC 36-8-8-14.1 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JUNE 1, 1998 (RETROACTIVE)]: Sec.
 32 14.1. (a) Benefits paid under this section are subject to section 2.5 of
 33 this chapter.

34 (b) If a fund member dies while receiving retirement or disability
 35 benefits, the following apply:

36 (1) Each of the member's surviving children is entitled to a
 37 monthly benefit equal to twenty percent (20%) of the fund
 38 member's monthly benefit:

39 (A) until the child reaches eighteen (18) years of age; or

40 (B) until the child reaches twenty-three (23) years of age if the
 41 child is enrolled in and regularly attending a secondary school
 42 or is a full-time student at an accredited college or university;

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1 whichever period is longer. However, if the board finds upon the
2 submission of satisfactory proof that a child who is at least
3 eighteen (18) years of age is mentally or physically incapacitated,
4 is not a ward of the state, and is not receiving a benefit under
5 subdivision (1)(B), the child is entitled to receive an amount each
6 month that is equal to the greater of thirty percent (30%) of the
7 monthly pay of a first class patrolman or first class firefighter or
8 fifty-five percent (55%) of the monthly benefit the deceased
9 member was receiving or was entitled to receive on the date of the
10 member's death as long as the mental or physical incapacity of the
11 child continues. Benefits paid for a child shall be paid to the
12 surviving parent as long as the child resides with and is supported
13 by the surviving parent. If the surviving parent dies, the benefits
14 shall be paid to the legal guardian of the child.

15 (2) The member's surviving spouse is entitled to a monthly benefit
16 equal to sixty percent (60%) of the fund member's monthly
17 benefit during the spouse's lifetime. If the spouse remarried before
18 September 1, 1983, and benefits ceased on the date of remarriage,
19 the benefits for the surviving spouse shall be reinstated on July 1,
20 1997, and continue during the life of the surviving spouse.

21 If a fund member dies while receiving retirement or disability benefits,
22 there is no surviving eligible child or spouse, and there is proof
23 satisfactory to the local board, subject to review in the manner
24 specified in section 13.1(b) of this chapter, that the parent was wholly
25 dependent on the fund member, the member's surviving parent is
26 entitled, or both surviving parents if qualified are entitled jointly, to
27 receive fifty percent (50%) of the fund member's monthly benefit
28 during the parent's or parents' lifetime.

29 (c) If a fund member dies while on active duty or while retired and
30 not receiving benefits, the member's children and the member's spouse,
31 or the member's parent or parents, are entitled to receive a monthly
32 benefit determined under subsection (b). If the fund member did not
33 have at least twenty (20) years of service or was not at least fifty-two
34 (52) years old, the benefit is computed as if the member:

35 (1) did have twenty (20) years of service; and

36 (2) was fifty-two (52) years of age.

37 (d) If a fund member dies in the line of duty after August 31, 1982,
38 the member's surviving spouse is entitled to an additional monthly
39 benefit during the spouse's lifetime, equal to the difference between the
40 benefit payable under subsection (b)(2) and the benefit to which the
41 member would have been entitled on the date of the member's death,
42 but not less than the benefit payable to a member with twenty (20)

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1 years service at fifty-two (52) years of age. If the spouse remarried
2 before September 1, 1983, and benefits ceased on the date of
3 remarriage, the benefits for the surviving spouse shall be reinstated on
4 July 1, 1997, and continue during the life of the surviving spouse. For
5 purposes of this subsection, "dies in the line of duty" means death that
6 occurs as a direct result of personal injury or illness resulting from:

7 (1) any action that the member, in the member's capacity as a
8 police officer:

9 (A) is obligated or authorized by rule, regulation, condition of
10 employment or service, or law to perform; **or**

11 (B) **performs** in the course of controlling or reducing crime or
12 enforcing the criminal law; or

13 (2) any action that the member, in the member's capacity as a
14 firefighter:

15 (A) is obligated or authorized by rule, regulation, condition of
16 employment or service, or law to perform; **or**

17 (B) **performs** while on the scene of an emergency run
18 (including false alarms) or on the way to or from the scene.

19 **SECTION 22. An emergency is declared for this act.**

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